

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. 9-90  
(ALTERNATIVE 2)

) IN THE MATTER OF AMENDING CHAPTER 9  
) OF LANE CODE TO ADD PROVISIONS PRO-  
) VIDING A RESTRICTION ON USE OF SOLID  
) FUEL SPACE HEATING DEVICES (LC 9.120  
) - LC 9.160) AND INCORPORATING PROCE-  
) DURES AND PENALTIES FOR ENFORCEMENT,  
) PROVIDING AN EFFECTIVE DATE OF JANUARY  
) 1, 1991 FOR ALL SECTIONS, EXCEPT LC  
) 9.155, WHICH IS TO TAKE EFFECT ON  
) NOVEMBER 1, 1991 (LC 9.990(6))

The Board of County Commissioners of Lane County ordains as follows:

Chapter 9 of Lane Code is hereby amended by removing, adding and substituting the following pages:

REMOVE THESE PAGES

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9.990(1) - 9.995,  
i.e. 9-51  
(a total of one page)

INSERT THESE PAGES

9.120 - 9.125 to  
9.145 - 9.160  
i.e. 9-9a to 9-9c  
(a total of three new pages)

9.990(1) - 9.995,  
i.e. 9-51  
(a total of one page)

Said pages are attached hereto and incorporated herein by reference. The purpose of these additions and substitutions is to add provisions providing a restriction on use of solid fuel space heating devices (LC 9.120) - LC 9.160) and incorporating procedures and penalties for enforcement, providing an effective date of January 1, 1991 for all sections, except LC 9.155, which is to take effect on November 1, 1991 (LC 9.990(6)).

Enacted this 19<sup>th</sup> day of December, 1990.

Bill Rogers  
Chair, Lane County Board of  
Commissioners

Judy Haldeman  
Recording Secretary for this  
Meeting of the Board

RECEIVED

DEC 27 1990

#20026

1990 DEC 27 11:00 AM

APPROVED AS TO FORM  
DATE 12/20/90 by will at  
OFFICE OF LEGAL COUNSEL

1 - IN THE MATTER OF AMENDING CHAPTER 9 OF LANE CODE TO ADD PROVISIONS PROVIDING A RESTRICTION ON USE OF SOLID FUEL SPACE HEATING DEVICES (LC 9.120) - LC 9.160) AND INCORPORATING PROCEDURES AND PENALTIES FOR ENFORCEMENT, PROVIDING AN EFFECTIVE DATE OF JANUARY 1, 1991 FOR ALL SECTIONS, EXCEPT LC 9.155, WHICH IS TO TAKE EFFECT ON NOVEMBER 1, 1991 (LC 9.990(6))

bcj/4210

# **APPENDIX**

## **H**

### **LOCALLY ADOPTED ORDINANCES**

## RESTRICTION ON USE OF SOLID FUEL SPACE HEATING DEVICES

9.120 Purpose and Findings.

(1) The health, safety and welfare of the citizens of Lane County are adversely affected by the degradation of air quality. Violations of federal ambient air quality standards, as measured by the Lane Regional Air Pollution Authority (LRAPA), occur periodically in Lane County.

(2) Wood and other solid fuel combustion for space heating produces particulate matter and other emissions which are physically harmful and aesthetically unpleasant, and which contribute to the degradation of air quality and the violation of federal ambient air quality standards.

(3) Periodic restriction of the use of solid fuel space heating devices will improve air quality. LRAPA has the expertise to determine when such air quality is at such a level that such restriction is necessary to preserve the health, safety and welfare of the citizens of Lane County.

(4) It is the intent of Lane County that the penalty section of this ordinance not take effect until November 1, 1991.

9.125 Definitions. As used herein, the following words and phrases shall mean:

Lane Regional Air Pollution Authority. A regional air quality control authority established under the provisions of and with the authority and powers derived from Oregon Revised Statutes 468.500 et seq.

Pellet Stove. An enclosed solid fuel space heating device designed and operated to burn manufactured solid fuel and having an air-to-fuel ratio greater than 35-to-1 as determined by the federal test method described in 40 CFR Part 60.534

Person. Any individual, partnership, corporation, association, governmental subdivision or public or private organization of any character.

Person in Charge of Property. An agent, occupant, lessee, tenant, contract purchaser, or other person having possession or control of property.

PM 10. Solid or liquid particulate matter (excluding uncombined water) with an aerodynamic diameter less than or equal to 10 micrometers.

Sole Source of Heat. A solid fuel space heating device which constitutes the only source of heating in a private residence. A solid fuel space heating device shall not be considered to be the sole source of heat if the private residence is equipped with any permanently-installed furnace or heating system utilizing oil, natural gas, electricity or propane.

Solid Fuel Space Heating Device. Any device designed or operated to burn solid fuel for the heating of the interior of a building, including, but not limited to, solid fuel burning stoves, fireplaces or wood stoves of any nature, combination fuel furnaces or boilers used for space heating which can burn solid fuel, and solid fuel burning cooking stoves. "Solid fuel space heating device" does not include natural gas-fired artificial fireplaces.

Stage I Red Advisory. A 24-hour period beginning at 4:00 p.m. when PM 10 levels are forecast by LRAPA to be greater than or equal to 125 micrograms per cubic meter but less than 150 micrograms per cubic meter within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.

Stage II Red Advisory. A 24-hour period beginning at 4:00 p.m. when PM 10 levels are forecast by LRAPA to be greater than or equal to 150 micrograms per cubic meter within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.

Visible Emissions. The reduction in transmission light or the obscuring of the view of an object in the background caused by the air pollutants emitted by the heating device. This does not include the visual distortion caused by the heated air emitted by the heating device.

9.130 Area of Applicability. The Metropolitan Area General Plan Urban Growth Boundary adopted in 1982 as amended through June 1990, excluding the area within the city limits of Eugene and Springfield.

9.135 Prohibitions.

(1) Stage I Red Advisory. No person in charge of property during a Stage I Red Advisory shall operate or allow to be operated a solid fuel space heating device which emits visible emissions into the air outside of the building housing the device unless the person in charge of the property has been granted an exemption to use the device by LRAPA.

(2) Stage II Red Advisory. No person in charge of property during a Stage II Red Advisory shall operate or allow to be operated a solid fuel space heating device unless the person in charge of the property has been granted an exemption to use the device by LRAPA or unless the person is operating a pellet stove which emits no visible emissions into the air outside of the building housing the device.

9.140 Exemptions. Exemptions from LC 9.135 above for Stage II and/or Stage I Red Advisories may be obtained from LRAPA for the following:

(1) Sole Source of Heat. A person in charge of property who signs a sworn statement that the solid fuel space heating device is the sole source of heat for that person's residence is exempt from LC 9.135 above, for both Stage I and Stage II Red Advisories. Individual exemptions shall expire on July 1 of each year and must be renewed annually. This exemption shall not be issued by LRAPA after June 30, 1996.

(2) Economic Need. Persons in charge of property who satisfy criteria established under the Low Income Energy Assistance Program as administered by the Lane County Housing Authority and as established by the United States Department of Energy are exempt from LC 9.135 above for both Stage I and Stage II Red Advisories. Individual exemptions shall expire on July 1 of each year and must be renewed annually.

9.145 Enforcement. The Board of County Commissioners designates LRAPA to enforce the prohibitions contained herein. The investigation, initiations of proceedings, adjudication of a violation and appeal of such violation shall be regulated by the adopted administrative and hearing procedures of LRAPA set forth in its Rules and Regulations.

The County shall also retain the right to investigate and enforce the terms of this ordinance. Existing citation, complaint or violation procedures applicable to the County may be utilized to prosecute such violations.

9.150 Warnings. Until November 1, 1991, violation of LC 9.135 above shall only result in notification without penalty.

9.155 Penalties. Violation of LC 9.135 above shall be punished by a fine of a minimum of \$50 to a maximum of \$500 for each day in which such violation occurs. This remedy is cumulative and is in addition to any and all other remedies available to Lane County. This subsection shall be effective November 1, 1991.

9.160 Effective Date. All sections of this ordinance except LC 9.155 above shall take effect on January 19, 1991. LC 9.155 shall take effect on November 1, 1991.

Violations and Penalties**9.990**     Violation.

(1) Violation of any provisions of this Chapter, except LC 9.745, LC 9.120 to 9.160 and those sections enumerated in LC 9.995, constitutes a Class A Infraction and shall be handled in accordance with LC Chapter 5. A violation of LC 9.745 constitutes a Class B Infraction.

(2) Any person may sign County Infraction summonses and complaints for violations of section 9.035.

(3) The Director of the Department of Public Works, or duly authorized representative, may sign County infraction summonses and complaints for violations of LC sections 9.710 and 9.745, the Director of the Department of Community Health and Social Services, or duly authorized representative, may sign County Infraction summonses and complaints for violations of any other LC sections listed in subsection (1) of this section.

(4) Each day in which a violation of sections 9.554, 9.558, 9.560, 9.564, 9.710 or 9.745 continues constitutes a separate infraction.

(5) At the expiration of the period set by the County for correction of any violation of sections 9.310 to 9.370, the County shall again inspect the dwelling. If the violation has not been corrected, the violation shall constitute a County Infraction.

(6) Violation of LC 9.135 shall be subject to the procedures of LC 9.145 to LC 9.150 and the penalty as specified in LC 9.155.

**9.995**     Penalty. Violation of sections 9.020, 9.030, 9.040, 9.045, 9.050, 9.060, 9.080, 9.085, 9.090, 9.095, 9.100, 9.115 or any of the rules or regulations published under the authority of Lane Code 9.110 shall be deemed to be a misdemeanor and shall be punishable on conviction by a fine of not more than \$500 or by imprisonment in the County jail for not more than six months, or both.

20-72; 10.13.72  
5-73; 8.4.73  
9-73; 8.15.73  
10-74; 8.23.74  
7-75; 5.16.75  
7-84;;7.27.84

9-51

WP 1/co/00021/C/51  
REV: 1/cr/00081/C

RESTRICTION ON USE OF SOLID FUEL SPACE HEATING DEVICES

9.120

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9-51

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